

# Board of Adjustment

## Staff Report

**CASE NUMBER:** BA17-035 (PLN2017-00337)  
**LOCATION/ADDRESS:** 903 W. Lindner  
**COUNCIL DISTRICT:** District 3  
**STAFF PLANNER:** Cierra Edwards, Planner I  
**OWNER/Applicant:** Louis Verrone

**REQUEST:** *Requesting a Variance to allow an addition to the primary residence to encroach in the required rear and side yard in the RS-6 zoning district.*

### SUMMARY OF APPLICANT'S REQUEST

The applicant is requesting a Variance to a room addition to encroach in the required rear and side yard setbacks at 903 W Lindner currently zoned RS-6.

### STAFF RECOMMENDATION

Staff recommends a **denial** of the Variance for case **BA17-035** based on the analysis and findings in this report.

### SITE CONTEXT

**CASE SITE:** Single Residence – Zoned RS-6  
**NORTH:** Existing residential – Zoned RS-6  
**SOUTH:** Existing residential – Zoned RS-6  
**EAST:** Existing residential – Zoned RS-6  
**WEST:** Existing residential – Zoned RS-6

### STAFF SUMMARY AND ANALYSIS

The parcel is located south and east of the southeast corner of Alma School and Baseline Road, and specifically Lot 67 of Woodglen Unit 1 subdivision. The house was originally constructed in 1975 with 1,809 square feet. The applicant is requesting a variance to encroach into the side and rear setbacks to allow for a 410 square foot (SF) room addition at the rear of the home. The addition was built between 1997-1998. During the time of the construction no building permits were issued. In conversation with the applicant and in the narrative, it has been indicated that the house was purchased with the unpermitted addition. The owners now want to sell the property and need legitimize the addition.

The following table summarizes the minimum required development standards for RS-6 district in comparison to proposed:

	Minimum required standards for RS-6	Proposed for 903 W Lindner
Lot Size	6,000 SF	7,275 SF
Yard Setbacks		
Front	10' to livable 20' to garage	24' to livable 24' to garage
Side, Minimum	7'6" is established for both sides to total the required aggregate of 15'	3'-4"
Side Aggregate of Two Sides	15'	10'-10"
Rear	20'*	8'-4"
Coverage	50% Maximum	47%

\*MZO figure 11-5-7.A allows for livable area to encroach into the required 20' rear yard up to 10 feet for up to one half the width of the residence

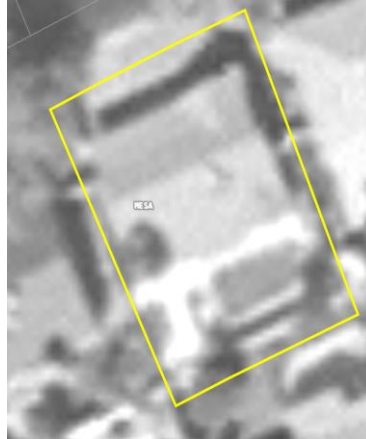
Mesa Zoning Ordinance (MZO) Section 11-5-3 requires a minimum rear setback of 20' in the RS-6 district; however, section 11-5-7.A allows for enclosed rooms to encroach up to 10' into the required rear yard for up to one-half of the width of the building for single residences. This would allow the addition that is less than one half the width of the house to encroach up to 10' from the rear property line. The applicant is proposing to be 8'-4" from the rear property line. Encroaching an additional 2'-8" into the required rear yard.

**Timeline of Photos:** The photos below show a snapshot of what the property looked like in 2016, 1997, and 1986.

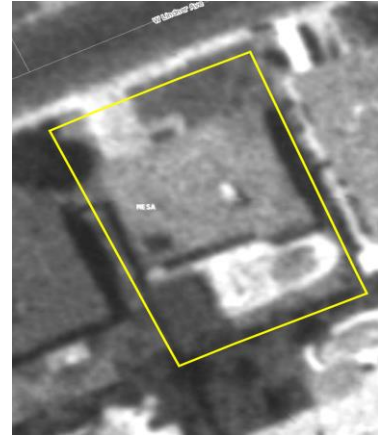
Nov.2015-Feb.2016



Dec.1996-Feb.1997



Jan. 1986-Dec.1986



The variance request for the addition includes encroachment into the side yard setback. The MZO table 11-5-3 requires a minimum aggregate of 15' for both sides with a minimum setback of 5'. In this case the existing home has a setback of 7'6" on the east side this then requires the west side to be a minimum of 7'-6" to total the required 15'. The applicant is proposing to have a 3'-4" setback which equates to a 4'-2" encroachment into the required side yard. Based on the aerial of the house, staff did determine the under roof area of the house including garage, patios and the addition is about 3,400 square feet. This is a total coverage of 47% for the lot. MZO allows for 50% coverage of the lots. This meets the MZO requirements for maximum roof coverage in the RS-6 district.

As justification for the requested variance regarding the additional 2'-8" into the required rear yard and 4'-2" for the required side yard, the applicant has noted: 1) the lot is not symmetrical; 2) the rear of the property is 6% narrower than the front of the property; 3) the lot is 13% smaller than neighboring properties; 4) the previous owner built the addition without obtaining a building permit.

To approve the variance, the Board of Adjustment must find the following items are present:

- a) *There are special conditions that apply to the land or building.*
- b) *The special condition was pre-existing and not created by the property owner.*
- c) *That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.*
- d) *The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.*

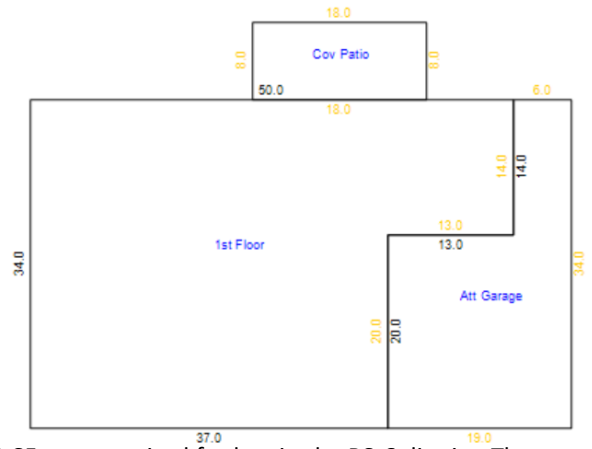
## ANALYSIS

### Question 1: There are special conditions that apply to the land or building.

Staff obtained a sketch of the site that Maricopa County has on file. The current sketch shown at the right does not indicate the addition within the single residence. There have not been any building permits issued for this address to create additional living space. The historical photos indicate it was constructed in the late 1990's. While this investment is important to the property owner, the Board is advised to review the application without regard to that applicant's investment. Rather, the case should be reviewed as if the project has not been built but is still a 'plan on paper'.

The subject parcel is consistent in size and shape to surrounding parcels within the neighborhood. The lot does not have an unusual shape and it is slightly larger than the minimum standard of 6,000-SF now required for lots in the RS-6 district. The parcel is 7,275 SF in total area, or 1275 SF larger than the minimum required. While it is true that the side lot lines are not parallel and the rear of the property is slightly narrower than the front lot line, this could have easily been taken into account when designing and building the addition.

Sketch from Maricopa County Assessor



### Question 2: The special condition was pre-existing and not created by the property owner.

The typical size and shape of the lot, as indicated in analysis above, was not created by the current property owner. The Woodglen Unit 1 subdivision was created in the mid-1970's.

### Question 3: That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.

Viewing the aerial of the neighborhood it shows that many of the homes throughout the Woodglen Unit 1 Subdivision meet zoning requirements and do not have large additions to homes that encroach into setbacks. The MZO allows for an encroachment into the rear yard of up to 10'. This standard can be applied to all lots in the single residential zoning districts. Staff has concluded that the room addition can be reduced to conform to MZO standards and be consistent with the neighborhood and all other similar lots in the city and still allow for the addition.

### Question 4: The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.

The lot is larger than the minimum standards for RS-6, the setbacks could be met. The MZO allows a 10' rear setback for livable space up to one-half the width of the building. While sensitive to the fact the addition has already been constructed on the property, the variance as proposed does not meet all requirements for granting of a variance. Staff believes that the encroachments for the room addition into the rear and side yards would give special privileges to the applicant and cannot be justified.

The present request to encroach into the rear and side yard setbacks is not justified. The lot has a regular shape, and complies with minimum width and depth requirements. There are no unusual topographic features on the lot, such as a steep slope or a dry wash. Without any special condition, which relate to the physical property, the proposed variance would constitute a special privilege unavailable to other properties in the vicinity and zoning district. For this reason, it is recommended that the Board deny this application.

#### FINDINGS:

- 1.1 The house was built in the 1975 within the RS-6 zoning district.
- 1.2 The lot is not unique in shape. It is a standard shaped lot oriented perpendicular to the street (Lindner).
- 1.3 The lot is surrounded by homes and lots of similar sizes and shapes.
- 1.4 The existing lot is oversized for a standard RS-6 zoned lot. The parcel is 7,275 SF in total area. The lot is 1,275 SF larger than the minimum lot area for a RS-6 lot.
- 1.5 The rear yard setback for livable space in the RS-6 zoning district is 20'. But in MZO allows a livable area to encroach by 10' into the required rear yard for up to one half the width of the building.
- 1.6 The side yard setbacks for livable space in the RS-6 zoning district must have an aggregate total of 15'. The existing home has an established side yard setback at the east of 7'-6". This would require a 7'-6" setback at the west side of the lot to gain the aggregate total of 15'.
- 1.7 The new room addition is 410 SF.
- 1.8 The lot does not have unique conditions related to the site.
- 1.9 Because there are options available to building livable area in the front or rear yards without variance, the applicant has not provided sufficient justification related to the land, which would justify the degree of the requested variance.
- 1.10 Strict compliance with Code would not completely deprive the property of the ability to construct livable additions at the front of the house and/or at the rear of the house.
- 1.11 Granting this variance would constitute special privileges unavailable to other property owners within the vicinity and zoning district

#### ORDINANCE REQUIREMENTS:

##### Zoning Ordinance, Sec. 11-5-3 – Development Standards for the RS District:

RS-6 District – Front Yard: 10' Minimum to enclosed Livable Areas, Porches, Porte Cocheres; Front Yard: 20' Minimum front yard to garage and carports; Rear Yard 20' minimum; Side Yard: minimum one side 5' and both sides must total 15' (paraphrased from table found in Sec. 11-5-3)

Zoning Ordinance, Figure 11-5-7.A

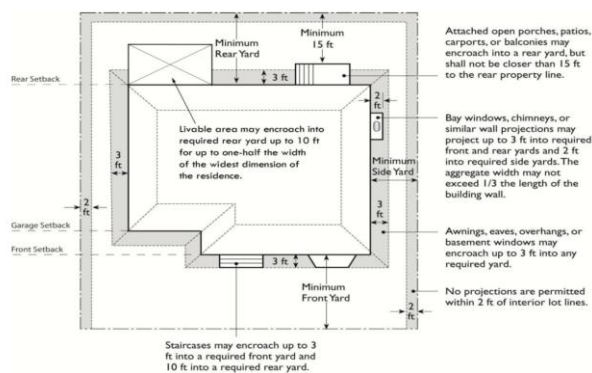


FIGURE 11-5-7.A: BUILDING PROJECTIONS

##### Zoning Ordinance Sec. 11-80-3: Required Findings (for a Variance):

A variance shall not be granted unless the Zoning Administrator, when acting as a Hearing Officer, or Board of Adjustment shall find upon sufficient evidence make a determination:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, and
- B. That such special circumstances are pre-existing, and not created by the property owner or appellant; and
- C. The strict application of the zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and

- D. Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located